



the Constitution or laws of the United States. Parratt v. Taylor, 451 U.S. 527, 535, 101 S.Ct. 1908, 1913, 68 L.Ed.2d 420 (1981).

The Eighth Amendment guarantees a prisoner the right to medical care. This right has been violated when prison officials are deliberately indifferent to a prisoner's serious medical needs. Estelle v. Gamble, 429 U.S. 97, 97 S.Ct. 285, 50 L.Ed.2d 251 (1976).

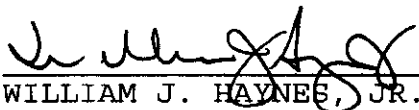
In this case, the Plaintiff alleges that his condition has worsened because the defendants will not give him the same medications prescribed for him prior to his incarceration. However, according to documents attached to the complaint, the Plaintiff has not been given these medications since sometime in 2003. Thus, the Plaintiff has been receiving some type of care and treatment for his condition, simply not the care and treatment preferred by the Plaintiff. Consequently, the defendants have not been deliberately indifferent to Plaintiff's medical needs. This dispute, therefore, arises over the adequacy of the care provided the Plaintiff.

When a prisoner has received some medical attention and his claim is a challenge to the adequacy of the care provided, federal courts are generally reluctant to second guess medical judgments and constitutionalize claims which sound in state tort law. Westlake v. Lucas, 537 F.2d 857, 860 n.5 (6<sup>th</sup> Cir.1976). Medical malpractice does not become a constitutional tort merely because the victim is a prisoner. Estelle, 429 U.S. 105-106.

Therefore, the Plaintiff has failed to describe conduct resulting in a violation of federal law.

Absent a violation of federal law, the Plaintiff has failed to state a claim upon which § 1983 relief can be granted. Accordingly, the Court is obliged to dismiss this action sua sponte. 28 U.S.C. § 1915(e)(2).

An appropriate order will be entered.

  
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WILLIAM J. HAYNES, JR.  
UNITED STATES DISTRICT JUDGE  
4-26-06